



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 8, 1996

Ms. Eileen C. Begle  
Assistant County Attorney  
Harris County  
1001 Preston, Suite 634  
Houston, Texas 77002-1891

OR96-0300

Dear Ms. Begle:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38648.

The Harris County Sheriff's Department Civil Service Commission (the "commission") received a request for various information pertaining to the 1995 and 1996 promotional examination for the position of lieutenant. You say the commission will release some of the requested information, but that pursuant to section 552.122(b) of the Government Code the commission seeks to withhold from required public disclosure the requestor's entire 1995 videotaped interview before the promotional board, with the exception of the last question, and the entire 1996 videotaped interview, with the exception of two questions.

Section 552.122(b) of the Government Code excepts from required public disclosure a "test item developed by a licensing agency or governmental body." The term "test item" for purposes of section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated. Open Records Decision No. 626 (1994). Early attorney general decisions applying this provision concluded that where it was the policy of the governmental body to reuse test questions, release of such questions would "compromise the effectiveness of future examinations." *See id.* at 5 (and authorities cited therein).

The questions at issue in some instances ask the applicant's opinion and in some instances require responses to situations various officers might encounter. You inform us that the commission may repeat the same questions during the next promotional examination period.

We believe that some of the questions test the applicant's knowledge or ability in a particular area; these along with their answers we have marked. You may withhold these marked questions and answers from required public disclosure pursuant to section 552.112 of the Government Code. However, we do not believe all of the questions test the applicant's knowledge or ability in a particular area. Some of the questions ask for an opinion. Accordingly, you may not withhold from disclosure those questions and accompanying answers.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Records Division

KHG/ch

Ref.: ID# 38648

Enclosures: Submitted documents  
Videotape

cc: Mr. Bruce Douglas Carr  
Harris County Sheriff's Department  
Bonding Division  
1301 Franklin  
Houston, Texas 77002  
(w/o enclosures)